

Approved

SCENIC ROAD ORDINANCE

Sec. I Purpose. The scenic roads of the Town of Roxbury play an essential role in defining Roxbury's rural character and in preserving the slower pace of country living which is valued and encouraged in Roxbury. CT Gen. Stat. Section 7-149a, as amended, authorizes the municipal preservation and protection of the scenic or historic values of rural scenic Town Roads. It is the purpose of this Ordinance to meet that need while also providing for common convenience and public safety. Pursuant to CT Gen Stat. Section 7-149a, as amended, the Town of Roxbury hereby provides for the designation of Town Roads or portions thereof as Scenic Roads, and further in order to maintain the scenic nature of Town Roads so designated, or portions thereof, future alteration or improvement of such designated Scenic Roads, including but not limited to, widening of the right-of-way or of the traveled portion of the highway paving, changes of grade, straightening, removal of stone walls and removal of mature trees.

Sec. II. Authority. Subject to the requirements of this Ordinance, the authority to designate a Town Road or any portion of any Town Road as a Scenic Road is hereby delegated to the Planning Commission of the Town of Roxbury (the "Commission").

Sec. III. Designation Criteria.

1. Prior to designating a Town Road or portion thereof as a Scenic Road, the Commission must first specifically find that at least one of the following criteria are met:

- a. The Town Road is unpaved;
- b. The Town Road is bordered by mature trees or stone walls;
- c. The traveled portion of the Town Road is no more than 20 feet wide;
- d. The Town Road offers scenic views;
- e. The Town Road blends naturally into the surrounding terrain; or
- f. The Town Road parallels or crosses over one or more of the following:
Brooks, streams lakes or ponds.

g. No State highway or portion thereof may be designated a Scenic Road under the provisions of this Section.

h. The Town Road must be free of intensive commercial development and intensive vehicular traffic.

2. No Town Road or portion thereof may be designated as a Scenic Road by the commission pursuant to this Ordinance unless the owners of a majority of the lot frontage abutting both sides of the Town Road or portion thereof proposed as a Scenic Road (hereinafter "Abutting Owners") agree to the designation by filing a written statement of approval with the Town Clerk of the Town of Roxbury.

Sec. IV. Procedure for Designation. Scenic Roads may be designated as follows:

1. Proposed by the Commission. The Commission, on its own initiative, may propose a Town Road or portion thereof for consideration for Scenic Road designation, provided it obtains the written concurrence of the Abutting Owners.

2. Petition by Abutting Owners. Abutting Owners of the Town of Roxbury may petition the Commission for a designation of a Town Road or portion thereof as a Scenic Road according to the procedure set forth.

3. General Procedure. All proposals for Scenic Road designations by the Planning Commission or petitions by Abutting Owners shall:

a. State which road or portion of road is requested to be so designated.

b. Describe those characteristics of the road which qualify it for Scenic Road status as set forth in Section III of this Ordinance as well as the characteristics which enhance the scenic character of the road.

c. Be signed by the Abutting Owners of the road or portion of the road to be so designated.

d. Those signing a Petition have the responsibility of proving to the satisfaction of the Commission that the signatories own a majority of the frontage abutting the road or portion of road proposed to be designated. Such proof may include information already on file with the Town, but may require new additional information such as a survey. If the Commission proposes the designation the Commission shall incur the expense and responsibility of proving that it has the consent of the Abutting Owners.

e. Each Abutting Owner shall indicate his or her address on the Petition or when signing the concurrence on a proposal made by the Commission.

f. Petitions for designation must contain the name, address and signature of the circulator of the petition, who must be a resident of Roxbury. The Petition shall have a signed statement by the circulator that the circulator either knows each individual who signed the petition or that the signer satisfactorily identified himself or herself to the circulator. An original and one copy of the Petition shall be filed with the Town Clerk, who shall retain the copy and forward the original to the commission. The Petition shall constitute the application for designation of a Scenic Road.

4. Public Notice In order to designate a Town Road or portion thereof as a Scenic Road, the Commission shall first hold a public hearing regarding such required by CT Gen. Stat. Section 8-26e, as amended, by publication in a newspaper of general circulation in the Town of Roxbury at least twice in intervals of not less than two days, the first not more than 15 days, nor less than 10 days, and the last not less than two days prior to the date of such hearing and by sending a copy thereof by registered or certified mail to the owners of lots fronting the Town Road or the portion of the Town Road to be designated as a Scenic Road.

5. Referrals. The Commission shall notify before the Public Hearing notice the Board of Selectmen, Zoning Commission and Volunteer Fire Department of the application and solicit their comments.

6. Time Period for Action. For applications initiated by the Abutting Owners, the Commission shall act upon the designation within the period of time permitted under Section 8-26d of the CT General Statutes, as amended, which requires that a hearing shall commence within 65 days of receipt of such application for designation of a Scenic Road. The hearing shall be completed within 30 days after such hearing commences. All decisions on such matters shall be rendered within 65 days after completion of such hearing. The applicant may consent to one or more extensions of any period specified in this Section, provided the total extensions of any such period shall not be for longer than the original period as specified in this Section, or may withdraw the application.

7. Notice of the Decision. Notice of the decision of the Commission shall be published in a newspaper having a substantial circulation in the Town of Roxbury and addressed by certified mail to owners of lots fronting on that Town Road or portion thereof designated as a Scenic Road, by its secretary or clerk, under his/her signature in any written, printed, typewritten or stamped form, within 15 days after such decision has been rendered. Such notice shall be a simple statement that the Town Road or portion thereof was or was not designated as a Scenic Road by the Planning Commission, together with the date of such action. The grounds for the designation or non-designation shall be stated in the minutes of the Commission and shall include in as much detail as possible the special features which make the Town Road so designated scenic, or the reasons for denying designation.

Sec. V. Rescission and Appeal

1. Decision. The designation of a Town Road or a portion thereof as a Scenic Road may be

rescinded by the Planning Commission, using the same procedures required in this Ordinance for designation, and provided that the owners of a majority of lot frontage abutting the Town Road or a portion of the Town Road concur with such rescission.

2. Appeal. Pursuant to CT Gen Stat. Section 7-149a(d), any person aggrieved by the designation of a Town Road or portion of a Town Road as a Scenic Road may appeal such designation in the manner and utilizing the same standards of review provided for appeals from the decisions of the Commission under CT General Statute Section 8-28, as amended.

Sec. VI. Application for Alterations and Improvements

1. Preservation Objective. Routine maintenance and the regulation of future alterations and improvements of designated Town Road shall be carried out so as to preserve to the highest degree possible the scenic characteristics of the Town Road which are indicated in the records of the Commission as the basis for the designation. Any road or portion of any road designated as a Scenic Road shall be maintained by the Town in good and sufficient repair and in passable condition.

2. Hearing and Decision Responsibility. The alteration or improvement of a designated Scenic Road shall be determined by the Board of Selectmen. Any proposal for alteration or improvement, whether by public or private applicant, shall be submitted to the Commission which shall hold a public hearing in accordance with the same requirements as set forth in CT Gen. Stat. Section 8-26e, as amended and Section IV of this Ordinance, and submit findings of fact and a recommendation to the Board of Selectmen. After a recommendation by the Commission to maintain a designated highway without change, the Board of Selectmen may disregard that recommendation only by a majority vote of its own. The Board of Selectmen shall consider the findings of fact of the Commission and shall give due consideration to the Commission's recommendation. The Board of Selectmen shall authorize alteration or improvement of a Scenic Road or portion of a Scenic Road if it finds that such alteration or improvement is necessary to maintain the road in good and sufficient repair or in reasonably safe condition for public travel.

3. Routine Road Maintenance. Routine Town Road maintenance and repair of designated Scenic Roads shall include:

- a. Removal of dead and seriously diseased or damaged trees and branches of trees;
- b. Trimming of the tree branches that encroach on the traveled portion of the Town Road below the height needed to allow school buses and emergency vehicles to pass;
- c. Trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines;
- d. Trimming of brush to enhance and protect scenic views, stone walls, mature trees

and other characteristics of the Scenic Road set forth in the decision designating it a Scenic Road;

- e. Correction of drainage problems; and graveling, retreatment and repair of existing roadway surfaces;
- f. Graveling, retreatment and repair of existing roadway surfaces;
- g. Application of traffic markings;
- h. Snow plowing, sanding, sweeping and catch basin cleaning; and
- i. Maintenance of stone walls.

4. Natural and Man-made Disasters. In case of a natural or man-made disaster in which a road becomes impassable or unsafe for public travel and access must be provided, emergency repairs may be made as needed. The designating of a Scenic Road shall have no effect on the actions of the Town or Fire, Police, or Ambulance Departments or Services during a disaster or emergency.

5, Paving and Non-Routine Maintenance. Improvements or non-routine maintenance or alterations, as referred to in Section VI of this Ordinance, examples of which include paving of dirt or gravel roads, widening the travel portion of the road beyond 18 feet, change of grade greater than 2%, straightening, removal of mature trees or structures for other than public safety reasons, shall require approval of the Board of Selectmen as set forth in Section VI of this Ordinance. To the extent possible, the work shall be performed so as to maintain or enhance the road's scenic character. The Board of Selectmen shall take into account the safety features of the proposed changes, the overall impact of the proposed changes on the Scenic Road and the public response to the proposed change.

6. Standards for Alteration. When contemplating alterations to a Scenic Road for common convenience and necessity, which alterations are not considered routine maintenance and repair under Sections VI 3,4, and 5 of this Ordinance, including without limitation, safety reasons and Fire and Police considerations, the Commission shall:

- a. Review a suitable map, and where deemed necessary by the Commission, a technical report documenting the cited hazard and offering alternative solutions.
- b. Notice and hold a Public Hearing in accordance with CT Gen. Stat. Section 8-26e and Section IV 2 of this Ordinance.
- c. Have available and consider a full description of the recommended safety measures affecting the Scenic Road along with an estimate of their overall impact on the Scenic Road. If stone walls or portions thereof along the untraveled portion of

the Scenic Road must be removed, they shall be rebuilt in as close to their original location as possible.

d. Consider the following:

1) Speed Limits. Scenic values are correlated with lower speeds

2) Curves. Curves provide a constant unfolding of new and changing views and therefore have scenic value. Curves shall not be eliminated unless they are found to be a definite hazard within the concept of the specific road.

3) Grades. Hills and valleys provide scenic value and therefore should not be destroyed by cuts and fills unless absolutely essential for road safety.

4) Widths. A narrow road is correlated with high scenic beauty. Designated Scenic Roads should not be widened unless the amount of traffic, as determined by a factual study, demands it. For some rural roads, the amount of traffic that can be handled can be greatly increased by wide by-passes and turn-outs constructed at intervals where they do least damage to scenic and environmental values.

5) Side Slopes. Existing steepness of side-slopes is preferable to reduction of gradient by extensive removal of soil and rock. This is specially true where the slope is fully stabilized and where it is rich with existing ground cover, shrubs and trees.

6) Vistas. Vistas of distant landscapes shall be preserved by suitable Vegetation Management techniques.

7) Utility Lines. Wherever possible, utility lines should be put underground. Where they are overhead, the utility corporations should use conservative vegetation management techniques which preserve wild flowers and shrubs.

8) Vegetation. Vegetation on the side of the road shall be managed in such a way as to preserve wild flowers, trees and shrubs that provide habitat to wildlife.

9) Stone Walls. Stone walls shall be preserved except where necessary for public safety.

Any action under Section VI, paragraph 3, subparagraphs a ,b ,c, and d, shall be taken in a manner which will avoid or reduce adverse effects on the designated Town Road. Any reconstruction of a Town Road shall be done in a similar manner with a view to restoring the road to the extent possible to its scenic character at the time of designation.

7. Rights of Landowners.

- a. Nothing in this Ordinance shall be deemed to prohibit a person owning or occupying land abutting the Town Road or portion thereof designated as a Scenic Road by the Planning Commission (1) from maintaining and repairing the land which abuts the road so designated if the maintenance occurs on land not within the right of way, paved or unpaved, of the Scenic Road, or (2) from having access to his property by driveway or subdivision road connecting to a Scenic Road.
- b. Nothing herein shall prohibit permanent placement of sand barrels, refuse containers, recycling containers, or Fire Department water supply facilities such as hydrants, within the right of way of any Scenic Road, nor shall abutters to any Scenic Road be prohibited from permanently placing mail boxes or house numbers within the right of way of any Scenic Road.
- c. Nothing herein shall prohibit a landowner from permanently removing a portion of a stone wall in order to construct or improve a driveway or, in the case of a subdivision, to connect a subdivision road with a designated Scenic Road.

8. Reduction of Adverse Effects. Any action taken under any section of this Ordinance shall be taken in a manner which will avoid or reduce adverse effects on the designated Town Road. Any reconstruction of a Town Road shall be done in a similar manner with a view to restoring the road to the extent possible to its scenic character at the time of designation.

Sec. VII. Enforcement

1. **General.** This Ordinance shall be enforced in the same manner as all Town Ordinances.
2. **Penalty.** Violation of this Ordinance shall be subject to a fine not exceeding \$100.00 per day for each day the violation continues, and such other legal remedies as may be available to the Town of Roxbury.

Sec. VII. Effective Date. This Ordinance shall become effective upon publication in a newspaper of general circulation in the Town of Roxbury.